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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,903	08/03/2001	Brian G. Agee	4271-4036US3	8061
30083	7590	06/13/2005		EXAMINER
PERKINS COIE LLP/AWS				TRAN, KHAI
P.O. BOX 1247				
SEATTLE, WA 98111-1247			ART UNIT	PAPER NUMBER
			2637	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/920,903	AGEE ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	KHAI TRAN	2637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 03 August 2001.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) \_\_\_\_\_ is/are pending in the application.  
4a) Of the above claim(s) 71-112, 123-156 and 234-255 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 11-30 and 41-60 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 13 sheets.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Claims 71-112, 123-156, 234-255 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-elected invention, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 5/02/2005.

***Claim Objections***

2. Claims 11, 21, 41, 51 are objected to because of the following informalities:  
Appropriate correction is required.

Regarding claim 11, lines 9 and 11, the term "the said" should be --said--.

Regarding claim 21, line 7, and 11, the term "the said" should be --said--.

Regarding claim 41, lines 9 and 15, the term "the said" should be --said--.

Regarding claim 51, lines 13 and 16, the term "the said" should be --said--.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 41-60 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to

which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 41 and 51, the particular claimed limitation "the first propagation direction and the reverse direction" has no support in the specification.

5. Claims 41-60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 41, 51, the recitation of "the reverse propagation direction" lacks antecedent basis.

Claims 41-59, and 51-60 are rejected by virtue of their dependency.

### ***Double Patenting***

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993)., *In re Longi* 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985)., *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982)., *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970), and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

patenting ground provided the conflicting application or patent is shown to be common owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 11-30, 41-60 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,359,923. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are not patentably distinct from each other because claims 1-10 of the US Patent No. 6,359,923 encompass claims 11-30, 41-60 of the present application. Furthermore, because claims 11-30, 41-60 of the instant application merely broadens the scope of the claims 1-10 of the U.S. Patent No. 6,359,923 by eliminating the elements and their functions of claims 1-10 of the U.S. Patent. It has been held that the omission an element and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd.App.1969); omission of a reference element whose function is not needed would be obvious to one skilled in the art.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shoki et al (6,480,526) disclose a spread spectrum receiver.

Elliott Hooli (U.S. Pat. 6,782,039) discloses delay compensation.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAI TRAN whose telephone number is (571) 272-3019. The examiner can normally be reached on 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JAY PATEL can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KHAI TRAN  
Primary Examiner  
Art Unit 2637

**KT**  
**June 9, 2005**